



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

BANNER & WITCOFF LTD
ATTORNEYS FOR CLIENT NUMBER 007412
1100 13th STREET NW
SUITE 1200
WASHINGTON DC 20005-4051

MAILED

OCT 01 2010

OFFICE OF PETITIONS

In re Application	:
Taylor, et al.	:
Application No. 10/599,498	: DECISION ON APPLICATION
Filed: September 29, 2006	: FOR PATENT TERM ADJUSTMENT
Atty Docket No. 007412.00070	:

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705" filed May 17, 2010. Applicants request that the initial determination of patent term adjustment under 35 U.S.C. 154(b) be corrected from zero (0) days to two hundred sixty-six (266) days.

The application for patent term adjustment is **GRANTED** to the extent indicated herein.

The Office has updated the PAIR screen to reflect that the correct Patent Term Adjustment (PTA) determination at the time of the mailing of the Notice of Allowance is **two hundred forty-five (245) days**. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On February 17, 2010, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment (PTA) to date is zero (0) days. On May 17, 2010, Applicants timely¹ submitted the instant application for patent term adjustment, asserting that the correct number of days of PTA at the time of the mailing of the Notice of Allowance is two hundred sixty-six (266) days.

¹ Applicants filed the application for patent term adjustment together with the issue fee.

Applicants assert entitlement to a patent term adjustment of two hundred sixty-six (266) days on the basis that the PTO should have been assessed delay of two hundred sixty-six (266) days for not mailing an Office action within fourteen months of October 5, 2006, the date of completion of all 35 USC 371 requirements.

Applicants state that the patent issuing from the application is not subject to a terminal disclaimer.

35 USC 371 requirements were completed on October 5, 2006. Pursuant to 37 C.F.R. § 1.702(a)(1), the Office had until December 5, 2007 to mail a notification under 35 U.S.C. 132 or a notice of allowance under 35 U.S.C. 151. The Office mailed an Office action on August 28, 2008, and was not accorded any days of PTO delay. Accordingly, under 37 C.F.R. § 1.703(a)(1), PTO delay of two hundred sixty-six (266) days should have been assessed.

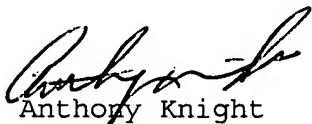
However, a review of the file reveals that Applicant delay also should have been assessed pursuant to 37 CFR 1.704(b). Subsequent to the Office mailing an Office action on August 28, 2008, Applicants filed a reply on December 19, 2008. Accordingly, pursuant to 37 CFR 1.704(b), twenty-one (21) days of Applicant delay should have been assessed.

In view thereof, the correct determination of patent term adjustment at the time of the mailing of the Notice of Allowance is **two hundred forty-five (245) days** (266 days of PTO delay reduced by 21 days of applicant delay).

Receipt of the \$200.00 fee set forth in 37 C.F.R. §1.18(e) is acknowledged.

The application file is being forwarded to the Office of Data Management for processing into a patent.

Telephone inquiries specific to this matter should be directed to Cliff Congo, Petitions Attorney, at (571)272-3207.



Anthony Knight
Director
Office of Petitions

Enclosure: Copy of Revised PAIR Screen



Patent Term Adjustments



PTA/PTE Information Patent Term Adjustment Patent Term Extension

Application Number*: 10599498 Search Explanation of PTA Calculation Explanation of PTE Calculation

PTE Calculations for Application: 10599498

Application Filing Date 09/29/2006	Overlapping Days Between (A and B) or (A and C): 0
Issue Date of Patent:	Non-Overlapping USPTO Delays: 0
A Delays 0	PTO Manual Adjustment: 245
B Delays 0	Applicant Delay (APPL): 0
C Delays 0	Total PTE (days): 245

* - Sorted Column

File Contents History

Action Number	Action Recorded Date	Action Due Date	Action Code	Action Description	Duration PTO	Duration APPL	Parent Action Number
66	09/30/2010		P028	Adjustment of PTA Calculation by PTO		24	0
65	09/30/2010		P028	Adjustment of PTA Calculation by PTO	266		0
58	02/17/2010		HN/-	Mail Notice of Allowance	0		0
57	02/12/2010		TREV	Issue Revision Completed	0		0
56	02/12/2010		DVER	Document Verification	0		0
55	02/12/2010		N/-	Notice of Allowance Data Verification Completed	0		0
54	02/11/2010		CNTA	Notice of Allowability	0		0
51	01/13/2010		FWDX	Date Forwarded to Examiner	0		0
50	11/25/2009		A-	Response after Non-Final Action	0		0
49	09/25/2009		NEXIN	Mail Examiner Interview Summary (PTOL - 413)	0		0
48	09/22/2009		EXIN	Examiner Interview Summary Record (PTOL - 413)	0		0
47	08/26/2009		MCTNF	Mail Non-Final Rejection	0		0
46	08/26/2009		CTNF	Non-Final Rejection	0		0
45	06/16/2009		FWDX	Date Forwarded to Examiner	0		0
43	06/16/2009		FWDX	Date Forwarded to Examiner	0		0
41	06/16/2009		ABN9	Disposal for a RCE / CPA / R129	0		0
44	06/15/2009		AMPR	RCE - AF Processed	0		0
42	06/15/2009		RCEX	Request for Continued Examination (RCE)	0		0
40	06/15/2009		BRCE	Workflow - Request for RCE - Begin	0		0
39	06/05/2009		MCTAV	Mail Advisory Action (PTOL - 303)	0		0
36	06/04/2009		CTAV	Advisory Action (PTOL - 303)	0		0
37	05/23/2009		FWDX	Date Forwarded to Examiner	0		0
36	05/18/2009		A.NE	Amendment after Final Rejection	0		0
35	03/17/2009		MCTFR	Mail Final Rejection (PTOL - 326)	0		0
34	03/16/2009		CTFR	Final Rejection	0		0
33	03/13/2009		PA..	Change in Power of Attorney (May Include Associate POA)	0		0
31	03/11/2009		CAD	Correspondence Address Change	0		0
32	01/26/2009		IDSC	Information Disclosure Statement considered	0		0
29	01/26/2009		EIDS	Electronic Information Disclosure Statement	0		0
28	01/26/2009		WIDS	Information Disclosure Statement (IDS) Filed	0		0
27	01/06/2009		FWDX	Date Forwarded to Examiner	0		0
24	12/23/2008		NEXIN	Mail Examiner Interview Summary (PTOL - 413)	0		0
26	12/18/2008		A-	Response after Non-Final Action	0		0
25	12/18/2008		XT/C	Request for Extension of Time - Granted	0		0
23	12/16/2008		EXIN	Examiner Interview Summary Record (PTOL - 413)	0		0
22	10/06/2008		DOCK	Case Docketed to Examiner in GAU	0		0
21	08/28/2008		MCTNF	Mail Non-Final Rejection	0		0
20	08/27/2008		CTNF	Non-Final Rejection	0		0
0	08/27/2008		DUHMY	Dummy Standard Action - DO NOT DELETE	0		0
14	07/29/2008		DOCK	Case Docketed to Examiner in GAU	0		0
13	11/15/2007		FLRCP.T.C	Filing Receipt - Corrected	0		0
12	10/05/2007		DOCK	Case Docketed to Examiner in GAU	0		0
11	09/06/2007		PG-ISSUE	PG-Pub Issue Notification	0		0
10	07/15/2007		C602	Oath or Declaration Filed (Including Supplemental)	0		0
9	06/29/2007		TSSCDMP	IFW TSS Processing by Tech Center Complete	0		0
6	06/19/2007		OIPE	Application Dispatched from OIPE	0		0
4	06/01/2007		PGPC	Sent to Classification Contractor	0		0
3	06/01/2007		M903	Notice of DO/EO Acceptance Mailed	0		0
2	10/06/2006		L194	Cleared by OIPE CSR	0		0
5	10/05/2006		371COMP	371 Completion Date	0		0
6	09/29/2006		RQPR	Request for Foreign Priority (Priority Papers May Be Included)	0		0
7	09/29/2006		A.PE	Preliminary Amendment	0		0
1	09/29/2006		IEXX	Initial Exam Team nn	0		0

Export to: Excel